



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Harry Nick Carter, et. al.
Serial No.: 09/884,661
Filed: June 19, 2001
For: Multimedia Synchronization Method and Device
Group Art Unit: 2171
Examiner: Unknown
Attorney Docket Number: AREQU.0101

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PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102(d)

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

Pursuant to 37 C.F.R. § 1.102(d), Applicants hereby petition the Commissioner to make the subject application special so that it may be taken out of turn for immediate action. In support of this Petition, the Applicants enclose the following:

- (1) The Declaration of David W. Carstens in compliance with M.P.E.P. § 708.02(II), with attachments; and,
- (2) A check in the amount of \$130.00 for the petition fee required under 37 C.F.R. § 1.17(i).

The above-identified application was filed on June 19, 2001. The application encompasses an apparatus and system for providing recorded digital multimedia programming in digital form in a multimedia player device where the user selects the programming and the recorded programming is updated or replaced periodically with new content from different networked sources. The apparatus and system comprise a device capable of digitally recording, storing, downloading and uploading multimedia programming in either audio or video formats and is able to transmit and receive such digital data, either via a hardwired or wireless network. The apparatus and system allows single or

multiple users to access the same or different content stored on the multimedia device in different networked locations. This application has not been examined and a first Office Action has not been issued thereon.

Since filing, it has come to Applicants' attention that at least one digital multimedia manufacturer is making and selling a digital multimedia apparatus and system for providing recorded digital multimedia programming in digital form in a multimedia player device where the user selects the programming and the recorded programming is updated or replaced periodically with new content from different networked sources. The apparatus and system comprise a device capable of digitally recording, storing, downloading and uploading multimedia programming in either audio or video formats and is able to transmit and receive such digital data, either via a hardwired or wireless network which infringes upon at least one of the claims in the above-identified application. The manufacturer, AMX Corporation, is manufacturing and selling the MAX Multimedia Server apparatus.

Pursuant to M.P.E.P. 708.02(II), I have made a rigid comparison between the infringing infringing device and several of the claims in the above-identified application and determined, in my own opinion, that some of the claims in the Applicants' application are unquestionably infringed. This comparison is discussed in greater detail in the Statement of David W. Carstens and attachments thereto. Further, the Applicants have instituted a careful and thorough search of the prior art and have attached the results of this search.

In light of the foregoing developments, on July 22, 2003, David W. Carstens filed a status inquiry with the U.S. Patent & Trademark Office concerning the status of the referenced application. At this time, he has not received a response in regard to same. To date, no further action has been received from the Patent and Trademark Office.

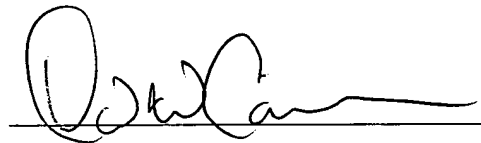
As the PTO is well aware, computer, digital multimedia devices and internet related apparatus and systems rapidly evolve every day. The importance of obtaining patent rights on intellectual property on applications in these fields of endeavor is very great, as the value of these applications can suddenly increase or decrease in today's market. Taking into account the volatile nature of the internet and digital multimedia application industry and in light of the fact that the Applicants' claims are currently being directly infringed by at least one multimedia manufacturer (See the Statement of David W. Carstens, Claim Infringement Analysis Chart and Attachments

thereto, and the prior art search results) which are attached and incorporated by reference herein as Exhibits A, B, and C, respectively, the Applicants' respectfully request that the above-identified application be made special so as to expedite the granting of a patent on same. This would allow the Applicants' to enforce their patent rights in the subject matter claimed in the above-identified application and terminate the ongoing infringement of the Applicants' claims while they are still of value.

Based on these considerations, this Petition to Make Special is necessitated and being filed. Applicants respectfully request that this Petition be granted.

Dated: December 4, 2003

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David W. Carstens", written over a horizontal line.

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